

§ 320.4

petition or application and included in a Service administrative file. Applicants should indicate that they wish to rely on such documents and identify the administrative file(s) by name and alien number. The Service will only request the required documentation again if necessary.

§ 320.4 Who must appear for an interview on the application for citizenship?

All applicants (and U.S. citizen parent(s) if application filed on behalf of a minor biological or adopted child) must appear for examination unless such examination is waived under the guidelines expressed in § 341.2 of this chapter.

§ 320.5 What happens if the application is approved or denied by the Service?

(a) *Approval of application.* If the application for the certificate of citizenship is granted, after the applicant takes the oath of allegiance prescribed in 8 CFR part 337, unless the oath is waived, the Service will issue a certificate of citizenship.

(b) *Denial of application.* If the decision of the district director is to deny the application for a certificate of citizenship under this section, the applicant shall be furnished with the reasons for denial and advised of the right to appeal in accordance with the provisions of 8 CFR 103.3(a). An applicant may file an appeal on Form I-290B, Notice of Appeal to the Administrative Appeals Unit (AAU), with the required fee prescribed in § 103.7(b)(1) of this chapter, in accordance with the instructions therein and with any supporting documentation addressing the reasons for denial. To be timely, an appeal must be filed within 30 days of service of the decision. After an application for a certificate of citizenship has been denied and the time for appeal has expired, a second application submitted by the same individual shall be rejected and the applicant will be instructed to submit a motion for reopening or reconsideration in accordance with 8 CFR 103.5. The motion shall be accompanied by the rejected application and the fee specified in 8 CFR 103.7. A decision shall be issued

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with notification of appeal rights in all certificate of citizenship cases, including any case denied due to the applicant's failure to prosecute the application.

PART 322—CHILD BORN OUTSIDE THE UNITED STATES; REQUIREMENTS FOR APPLICATION FOR CERTIFICATE OF CITIZENSHIP

Sec.

322.1 What are the definitions used in this part?

322.2 Who is eligible for citizenship?

322.3 How, where, and what forms and other documents should the United States citizen parent(s) file?

322.4 Who must appear for an interview on the application for citizenship?

322.5 What happens if the application is approved or denied by the Service?

AUTHORITY: 8 U.S.C. 1103, 1443; 8 CFR part 2.

SOURCE: 66 FR 32144, June 13, 2001, unless otherwise noted.

§ 322.1 What are the definitions used in this part?

As used in this part the term:

Adopted means adopted pursuant to a full, final and complete adoption. In the case of an orphan adoption, if a foreign adoption was not full and final, was defective, or the unmarried U.S. citizen parent or U.S. citizen parent and spouse jointly did not see and observe the child in person prior to or during the foreign adoption proceedings, an orphan is not considered to have been adopted and must be re-adopted in the United States or satisfy the requirements of section 101(b)(1)(E) of the Act.

Adopted child means a person who has been adopted as defined above and who meets the requirements of section 101(b)(1)(E) or (F) of the Act.

Child means a person who meets the requirements of section 101(c)(1) of the Act.

Lawful admission shall have the same meaning as provided in section 101(a)(13) of the Act.

Joint custody, in the case of a child of divorced or legally separated parents, means the award of equal responsibility for and authority over the care, education, religion, medical treatment